

CIVIL DOCKET

Barrow

72-C-225

D. C. Form No. 106A Rev.

| TITLE OF CASE | | ATTORNEYS | | | |
|---|--------------|---|---------------------|-------|-------|
| <p>IRWIN M. HERZ, Jr.; IRWIN M. HERZ, JR., as Trustee under Trust Indenture of June 13, 1960, otherwise known as the Three R Trust; LOUIS PAULS, JR.; CHARLES B. SMITH; and ANNE M. McDONALD;</p> <p>vs</p> <p>HARLEQUIN MANAGEMENT CORP.; LAWRENCE N. HURWITZ; NORMAN RASKIN; RUBIN PEARLMAN; LEO BLOOM; HERBERT SMOKLER; MARY WEITZEN; JOHN HICKMAN; and ABERDEEN PETROLEUM CORP.</p> | | <p>For plaintiff:</p> <p>Royce H. Savage, Boone, Ellison & Smith 914 World Bldg. Tulsa, Oklahoma 74103</p> <p><i>James D. Smith</i> Phipps, Smith & Herz U. S. National Bank Bldg. Galveston, Texas</p> | | | |
| <p>RECEIVERS: Harold C. Stuart and R. W. McDowell Atlas Life Bldg., 74103</p> <p>ATTORNEY FOR RECEIVERS: Royce H. Savage</p> | | <p>For defendant: <i>James D. Fellers</i> Fellers, Snider, Baggett, Blankenship & Bailey 2700 First National Center Oklahoma City, Ok 73102 (405)232-0621</p> <p><i>Andrew N. Heine</i> Marshall, Bratter, Greene, Allison & Tucker 430 Park Avenue N. Y., N. Y. 10022 (212) 421-7200</p> <p>John Imel (Marc Weitzen) 920 NBT Bldg. Tulsa, Okla. 74103 (918) 582-5281</p> <p>Martin, Logan, Moyers, Martin & Conway 920 Natl. Bank of Tulsa Bldg. Tulsa, Okla. 74103 (Raskin & Pearman)</p> | | | |
| STATISTICAL RECORD | COSTS | DATE | NAME OR RECEIPT NO. | REC. | DISB. |
| J.S. 5 mailed <i>7-1-72</i> | Clerk | 6-23-72 | L.K.Smith | 15 00 | |
| | | 6-29-72 | C.D.No.57 | | 15 00 |
| | | 6-29-72 | Bailey | 5 00 | |
| J.S. 6 mailed <i>9-1-72</i> | Marshal | 7-6-72 | C.D.No.2 | | 5 00 |
| Basis of Action: Appt. of Temp Receiver, Acctg of Funds & Damages | Docket fee | | | | |
| | Witness fees | | | | |
| Action arose at: | Depositions | | | | |

| DATE | PROCEEDINGS | Date Order or Judgment Noted |
|---------|--|------------------------------|
| 6-23-72 | Complaint filed. Summons issued. g Hearing held on appt. temp receivers. Mr. Ungerman present. His presence evolved under the following circumstances. Defts had conference w/ Ungerman on Wed. 6-21-72 relating to possibility of his representing them generally. After filing of petition on 6-23-72, pltf contacted Mr. Ung. to tell him it had been filed. Mr. Ung. stated at hearing he had made efforts to contact debt Herwitz, but was unable to reach him. Mr. Ung stated he had taken w/debt Weitzen, who is atty for debts and Aberdeen. Mr. Ung stated he was not officially employed, but appearing informally. At request of Court, Mr. Ung telephoned debt Weitzen in N.Y. and advised Weitzen that Pltfs had req. temp receiver and Court was giving consideration to the pet at hearing being held at that time. Mr. Ung returned to hearing and related his conversation w/Weitzen. Weitzen stated he could not approve appearance of Mr. Ung, since Weitzen could not reach Mr. Herwitz. Mr. Weitzen also stated if Court would hold hearing at a later date, he felt he could contact Mr. Herwitz and discuss the employment of Ung. Order was signed, apptng R. W. McDowell and Harold C. Stuart as co-receivers for Aberdeen Pet. Corp. Case to be set for hearing on July 31, 1972 @10:00 A.M. (AEB-J)r | |
| 6-23-72 | Appl for Order apptng Receiver pendente lite, filed by pltf., filed. r Order appointing R. W. McDowell and Harold C. Stuart as co-receivers pendente lite of Aberdeen Pet. Corp. Bond being set at \$50,000 each. Receivers have 30 days to file an inventory of all debts assets which come into his possession and control in connection w/receivership. Receivers to file report and summary, not later than the 15th day of each month, commencing 8-15-72, filed. (AEB-J)r | |
| 6-23-72 | Order appointing attorneys for receiver filed, directing that Royce H. Savage and the law firm of Boone, Ellison & Smith are representing the receivers, filed. (AEB-J)r | |
| 6-23-72 | Co-Receivers Bond of R. W. McDowell and Harold C. Stuart as Principals and the Amer. Ins. Co. as surety in sum of \$50,000 each, filed. r | |
| 6-23-72 | Oath of Receiver, filed. r | |
| 6-26-72 | Oath of Receiver, Harold C. Stuart, filed. rm. | |
| 6-27-72 | Appl of Co-Receivers for authority to establish and maintain Bank Accounts, filed. v -order as part of original pldg. to judge | |
| 6-27-72 | Appl of Co-Receivers to act jointly and severally and to incur certain expenses, filed. v -order as part of original pldg. to judge. | |
| 6-29-72 | Notice of appeal by debts from order of 6-23-72 apptg receivers, filed. g cpy to USCA and counsel. | |
| 6-30-72 | Bond on appeal, filed; \$250.00, The Traveler's Indemnity Co. of Hartford/Conn., surety. g | |
| 7-5-72 | Order filed approving the Appl of Co-Receivers for authority to establish and maintain bank accounts, signed on 6-29-72, filed. (AEB-J)r | |
| 7-5-72 | Order filed approving the Appl of Co-Receivers to act jointly and severally and to incur certain expenses, signed on 6-29-72, filed. (AEB-J)r | |
| 7-5-72 | Case set for hearing on retention of temporary receivers for 7/10/72 at 10:00 a.m. (AEB-J)rm - notices mailed; all parties notified by telegram w/request that they confirm receipt of notice by air mail. | |
| 7-5-72 | C.C. of Order of USCA remanding cause and directing evidentiary hearing within 10 days, filed. g | |
| 7-11-72 | Case called for Hearing on Retention of Temporary Receivers. Parties present and rep. as heretofore. Debt. filed Receivership Memorandum Brief in open court. Hearing continues with witnesses. Parties stipulate to a record of settlement, and it is read, signed, and filed in open court. Court further orders, upon joint appl. of the parties, -over- | |

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| 7-11-72 | Hearing continued. that a recess of 45 days within which to work out necessary details, shall be granted. (AEB-J)v | |
| 7-12-72 | Order, filed, that co-receiver shall immediately direct appropriate officers of the King Lafayette Bank, Brooklyn, New York, and the Houston Citizens Bank, Houston, Texas, to transfer all funds on deposit in such banks to the acct. of Aberdeen Petroleum Corp. at the First Ntl. Bnk. & Trust Co., Tulsa, Okla. | |
| | King Lafayette Bank, Brooklyn, New York, & the Houston Citizens Bnk., Houston, Texas, are ordered to comply with any directive of the co-receivers for Aberdeen Petroleum Corp. & to immediately transfer all funds deposited in such banks to the account of Aberdeen Petroleum Corp. to the account of Aberdeen Petroleum Corp. at First Ntl. Bnk. and Trust Co., Tulsa, Okla., in such manner and by such method as the co-receivers shall direct. (AEB-J)v -copies mailed. | |
| 7-12-72 | Order, filed, that the previous order of this Court of June 23, 1972, appointing receivers pendente lite is modified as follows: A1. The order for receivers to file an inventory within 30 days following 6-23-72 is suspended pending further order of this court. 2. The order to receivers to file a report and summary of the operations of the management of Aberdeen by August 15, 1972 is suspended pending further order of this Court. 3. The order requiring the receivers to prepare a list of creditors by 7-23-72 is suspended pending further order of this Court. B. The Order appointing receivers pendente lite, dated 6-23-72, is retained in full force and effect. | |
| | This order is entered upon the application of counsel for receivers with the approval of counsel for the debt.s (AEB-J)v | |
| 7-13-72 | Upon oral application to the Court, permission is granted to withdrawal the following exhibits: Pltf.'s exhibits 3 and 3a; Deft.s' exhibits 1 and 2. Permission of Withdrawal is granted upon the agreement of both parties. (AEB-J)v | |
| 7-20-72 | Answer of Marc Weitzen, Deft., filed. v | |
| 8-7-72 | Answer of Norman Raskin, filed. hm | |
| 8-7-72 | Answer of Rubin Pearlman, filed. hm | |
| 8-15-72 | It is ordered by the court that final date set down by court for shareholders to make any objections is Friday, Aug. 25, 1972, and Hearing on objections is set on Monday, August 28, 1972 at 10:00 A.M. (AEB-J)h | |
| 8-15-72 | Order filed that shareholds have to 8-25-72 to submit any objections and that hearing on objections set on Monday, Aug 28, 1972 at 10:00am. (AEB-J)h | |
| 8-15-72 | Application for termination of Receivership and settlement and dismissal of action filed by parties. h | |
| 8-23-72 | Objections of shareholders Edward J. Matthews and Cecelia A. Mathews, filed. ds | |
| 8-24-72 | Objections of shareholder Jerry L. Malesovas, filed, ds. | |
| 8-25-72 | Letter of John Fanciullo, filed. ds | |
| 8-28-72 | Note (on copy of order) objecting, of Mrs. O. Avery, filed. ds | |

| DATE | PROCEEDINGS | Date Order or Judgment Noted |
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| 8-28-72 | Hearing on objections held. Parties present and represented. Statements made. It is ordered that at request of parties, final hearing on report of Receivers is passed to Wednesday, Sept. 6, 1972 at 10:00AM. John Imel to prepare proper order terminating Receivers with the provision of the final report. (AEB-J)h (Letters from Shareholders filed.) | |
| 8-28-72 | Letter to Judge Barrow from Jack Lipschik dated 8-22-72, filed. hm | |
| 8-28-72 ✓ | Order of dismissal, filed and entered. Court retains jurisdiction for purpose of receiving co-receivers' final report - hearing set 9-6-72. (AEB-J)hm | |
| 8-30-72 | Summons, ret. & filed: served Aberdeen Petroleum Corp., Tulsa, 6-27-72; by serving Pres., served Aberdeen Petr. Corp. by serving Agent, O.C., 6-29-72; served Marc Weitzen 6-30-72, Norman H. Raskin, 7-18-72, Rubin Pearlman, 7-18-72, all in N.Y. City; served John H. Hickman, 8-7-72, Cooperstown, N.Y.; the following returned UNSERVED: Dr. Herbert J. Smokler, Harlequin Management Corp., Leo Bloom, Lawrence N. Hurwitz, & Secy. of State for Harlequin. (USM \$68.20) | |
| 9-6-72 ✓ | Hearing held. Receivers report; and <u>Receiver's Report signed and filed</u> in open court. Hearing held on application for Attorney Fees filed 9-5-72. Certain attorneys sworn and testify as to fees, defendants object to amounts. Court allows attorney fees as follows: L.K. Smith-\$2500; Receivers granted \$32,500. Court allows \$370.40 as expenses incurred. L.K. Smith to prepare orders on attorney fees. (AEB-J)h | L.K. Smith has it. |
| 9-5-72 | Application for allowance of Fee filed by Receiver. | |
| 9-6-72 | Order filed that report of the co-receivers is accepted; and further ordered that the co-receivers are discharged and their bond exonerated.(AEB-J)h | |
| 9-8-72 | Order establishing and directing payment of attorneys fees, filed. (AEB-J) ds | |
| 9-8-72 | Order establishing and directing payment of compensation to co-receivers, filed. (AEB-J) ds | |
| 9-8-72 | Order, that Irwin M. Herz, Jr. is awarded \$2,140.00 for services rendered to Aberdeen Petro. Corp. and shareholders, filed. Further ordered that Irwin M. Herz, Jr. receive \$981.45 for expenses incurred. (AEB-J) ds | |
| 9-26-72 | Release and receipt by R. W. McDowell, co-receiver, of \$8000 from Aberdeen Pet., filed. rm | |
| 9-6-72 | Release and receipt by Savage & Boone, co-receivers, of \$35,374.40 from Aberdeen Pet., filed. r | |
| 10-17-72 | Release and receipt by Irwin M. Herz, Jr. of \$3,111.45 from Aberdeen Petroleum, filed. rm | |